

Vehicle and License Plate Sanctions

Revoking or suspending a motorist's operators license is now a common penalty for many traffic infractions, especially those related to impaired driving. Unfortunately, many of these offenders continue to drive. It is not unusual for suspended drivers to receive additional traffic citations or be involved in crashes during periods of license suspension. As a way of reducing this problem, many states have passed laws that directly affect the offender's vehicle or license plates as a sanction for the impaired driving offense or for driving with a suspended license.

Some states now permit the **vehicles** of drivers convicted of certain impaired driving offenses to be impounded, immobilized (club or boot), or forfeited and sold. Other states allow the license **plates** to be removed and impounded. Still others allow for the use of specially marked license plates, and others allow for the installment of alcohol ignition interlock devices.

Key Facts

- In 1994, 1.38 million people were arrested in the U.S. for driving under the influence (DUI) or driving while intoxicated (DWI), more than all other reported criminal offenses except larceny and theft.
- About one third of all drivers arrested or convicted of DWI each year are repeat DWI offenders.
- Drivers with prior DWI convictions are also overrepresented in fatal crashes and have a greater relative risk of fatal crash involvement.
- Many second and third time convicted DWI offenders who had their license

suspended accumulated traffic offenses or crashes during the suspension period. In one study, 32 percent of suspended second time DWI offenders, and 61 percent of third time offenders, received violations or crashes on their driving record during their suspensions.

- Many drivers do not reinstate their license **even when eligible to do so**. In one study involving first time DWI offenders who had their licenses suspended for 90 days, 50 percent had not reinstated their licenses three years after they were eligible to be relicensed. Also, many of these offenders drive without auto insurance and do not attend treatment programs where such programs are a prerequisite for reinstatement.

Legislative Status

Thirty five states have laws that can affect the vehicles or vehicle plates of offenders.

- **Vehicle Impoundment:** Overnight impoundment of the vehicle of an individual arrested for impaired driving is a typical practice in most states. Several states have laws which permit longer term impoundments for certain offenses, usually for repeat DWI offenses or for Driving While Suspended (DWS) where the original offense was related to a DWI infraction. States which impound vehicles for these types of offenses include California, Delaware, Florida, Illinois, Iowa, Michigan, Missouri, Montana, Nebraska, Ohio, Oregon, and Wisconsin.

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Legislative Status *(continued)*

Suspension of Vehicle Registration: In 18 states the vehicle registration is withdrawn upon conviction of a DWI offense or a DWS offense where the original licensing action can be related to a DWI offense. States which can withdraw vehicle registrations for a DWI or DWS offense are Arizona, Arkansas, Delaware, Indiana, Kansas, Maine, Maryland, Michigan, Minnesota, New Hampshire, New York, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Virginia, Wyoming. Some of these states have their own enforcement departments that send out investigators to pick up the license plates of these offenders. However, in general, the vehicle license plate suspension provisions are poorly enforced.

Vehicle Confiscation: Twenty-one states permit the vehicle of multiple DWI or DWS offenders to be confiscated and sold. These states are Alaska, Alabama, Arizona, Arkansas, California, Georgia, Maine, Minnesota, Missouri, Montana, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Washington, and Wisconsin.

Vehicle Immobilization: One way courts can prevent a DWI or DWS offender from using his or her car is to immobilize the steering wheel (by using a "club") or lock a wheel (the boot). Currently, only Ohio uses this type of sanction.

Special License Plates or Plate Markings: A few states (Iowa, Minnesota, and Ohio) issue special license plates in order to permit the use of the vehicle by family members of convicted DWI offenders. Two states (Oregon and Washington) enacted laws which permitted officers to affix a zebra sticker over the annual year portion of the license plates of offenders.

Ignition Interlock: The purpose of an ignition interlock is to prevent a person who has consumed alcohol from operating a vehicle. The device measures alcohol concentration in the breath and is attached to a vehicle's ignition system. Before the car can be started, a driver must blow a sample of his or her breath into the interlock device. If the driver's breath alcohol is below a specified concentration, the driver will be able to start the vehicle's engine. However, if the driver has a breath alcohol concentration above the established level, the vehicle cannot be started. Thirty-four (34) states have laws providing for either the discretionary or mandatory use of ignition interlock devices for repeat and chronic DWI offenders. The ignition interlock is discretionary in 31 states: Alaska, Arkansas, Colorado, Delaware, Florida, Georgia,

Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Michigan, Missouri, Nebraska, Nevada, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, Tennessee, Utah, Virginia, Washington, West Virginia, Wisconsin. In three states—California, Oregon, and Texas—the law is mandatory under special circumstances. In some jurisdictions, interlocks may also be used for first offenders.

Recommendations for Strengthening and Increasing the Use of Vehicle and Vehicle Plate Sanctions

Contacts with state and local officials, members of the judiciary, and police officers suggest that while impoundment and forfeiture legislation is common, application of these laws is rare. The reasons cited include: (1) these laws are generally reserved for the relatively few multiple DWI offenders rather than the more numerous first offenders; (2) there are difficulties in dealing with non-offender owners; (3) it is costly to store junk vehicles that are not reclaimed by their owners; and (4) judges are reluctant to punish innocent family members.

Yet some states have developed innovative ways for dealing with these problems. Minnesota experienced a twelvefold increase in the use of its license plate impoundment law when they switched from court-based to administrative enforcement of the impoundment law.

The following recommendations may help state legislators and local officials revise existing legislation or enact new legislation to increase the use and effectiveness of their laws.

- Pass legislation that provides for administrative impoundment of plates and civil forfeiture of vehicles. In general, try to avoid criminal laws providing for forfeiture, since courts rarely use them.
- Enact legislation that allows for seizure at the time of arrest if officers impound either the vehicle or plate. It is more difficult and costly to track down the offender's vehicle later and the delay gives the offender the opportunity to transfer vehicle ownership.
- Pass legislation that makes it unlawful for the owner of a motor vehicle to knowingly allow another person to drive the vehicle unless the owner determines the person possesses a valid driver's license. Also, require non-offender owners to sign an affidavit stating they will not allow the offender to drive the vehicle again while the suspension is in effect.

- Establish a computerized state record keeping system to document vehicle [impoundment and forfeiture] and license plate actions. This allows states to monitor use of the sanctions.
- Apply impoundment laws to all repeat DWI offenders and to all DWS offenders where the original infraction was for a DWI offense. This will encourage an increase in the use of impoundment since many courts do not apply this sanction to second-time DWI offenders or to first time DWS offenders.
- Where the law provides for special license plates (e.g., family plates or license plate sticker laws) incorporate a provision that permits officers to stop the vehicle for the sole purpose of checking whether the driver is operating the vehicle while their license is under suspension.

Research and Evaluation Regarding the Effects of Vehicle and Plate Sanctions

- **Minnesota License Plate Impoundment Study:** In Minnesota, violators incurring three DWI violations in five years, or four or more in ten years, can have their license plates impounded and destroyed. An evaluation of the effects of the law found a significant decrease in recidivism for violators who had their plates impounded versus violators who did not. Violators whose license plates were impounded by the arresting officer at the time of arrest showed a 50 percent decrease in recidivism over a two year period (when compared with DWI violators who did not experience impoundment).
- **Ohio Impoundment and Immobilization Program:** In Franklin County (Columbus), Ohio, researchers are conducting a field test to study the deterrent effects that a combined impoundment and immobilization sanctions program has on crashes and violations for multiple DUI (Driving Under the Influence) and suspended license offenders. From September 1993 to September 1995, the vehicles of nearly 1,000 offenders were impounded and then immobilized. The recidivism rates of these offenders are being compared to eligible offenders who did not receive a vehicle sanction. So far, those offenders whose vehicles were impounded and immobilized had lower rates of recidivism both during and after the termination of the sanction than did those eligible offenders who managed to avoid the impoundment and immobilization sanctions. The project will also provide information on methods and procedures for implementing such a program, the types of problems that may be

experienced, and recommendations for dealing with them.

- **California Impoundment and Forfeiture Program:** NHTSA, in conjunction with the State Department of Motor Vehicles, is conducting a three year effort to study the impact of California's new vehicle impoundment and forfeiture laws as applied to unlicensed and suspended license offenders. The innovative 30-day impoundment law is not typical of those found in most states but involves a civil action independent of a criminal DWS conviction for those caught driving without a license. Preliminary findings indicate that during 1995, more than 100,000 vehicles were impounded but only 246 were seized and processed for forfeiture under the new laws. Currently, data are being collected from contacts with police departments, and from surveys of young drivers and suspended (or revoked) licensed offenders. Additionally, the driving records of motorists who were caught and convicted of DWS will be analyzed to determine the impact of these laws.

- **North Carolina Alcohol Ignition Interlock Program:** A study was conducted to determine the effectiveness of an interlock program in reducing recidivism among second-time DWI offenders. In North Carolina, these offenders are eligible to petition for a conditional license that is valid for the last two years of the four year revocation period. Assignment of petitioners to the interlock program was based on completion of the petition and the decision of a hearing officer. The findings suggested that as compared to those receiving a full four year hard license suspension, or those given the conditional license without an interlock, offenders receiving the interlock had a reduced rate of recidivism **while the interlock was installed**. However, when the interlock was removed and a valid license obtained, the recidivism rate of these drivers rose substantially.

The findings from the North Carolina study support those of a research study conducted in Hamilton County (Cincinnati), Ohio. In that study an interlock program also was found to reduce recidivism while the interlock was installed on the vehicles of multiple DWI offenders, but once removed the benefits did not continue (as compared to a license suspension group). Both studies suggest that, at least for multiple DWI offenders, long-term drinking and driving behavior patterns are not impacted.

Research and Evaluation Regarding the Effects of Vehicle and Plate Sanctions

(continued)

■ **Zebra Tag Program in Oregon and**

Washington State: In Oregon, suspended license offenders whose vehicle plates were "Zebra Tagged" had fewer subsequent DWI and DWS violations than suspended offenders who did not receive the special tags. Also, among suspended license offenders, the possibility of receiving a zebra tag if caught again appears to reduce subsequent violations and crashes. A similar law in Washington State did not affect subsequent violations or crashes for these types of offenders; however, it was not applied to nearly as many drivers and vehicles and it was not as strongly enforced by the police. (It should be noted that legislators in both states allowed the zebra tag law to expire.)

Information Sources

A Guide to Sentencing DUI Offenders, NHTSA and NIAAA, DOT HS 808 365, March 1996.

Model Specifications for Breath Alcohol Ignition Interlock Devices (BAIIDS) Federal Register Notice, Volume 57, No. 67, Tuesday, April 7 (11772-11786)

Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DWI: Phase I Report: Review of State Laws and Their Application, DOT HS 807 870, Final Report, June, 1992.

Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DUI, Phase II Report: Evaluation of Oregon and Washington Vehicle Plate Zebra Sticker Laws, DOT HS 808 136, Final Report, April 1994.

Alcohol Ignition Interlock Service Support, DOT HS 807 923, Final Report, December, 1992.

Popkin, C. et al, An Evaluation of the Effectiveness of Sanctions for DWI in Preventing Recidivism in North Carolina, UNC HSRC, Raleigh, NC, September 30, 1992.

Rogers, A. Effect of Minnesota's License Plate Impoundment Law on Recidivism of Multiple DWI Violators, Alcohol, Drugs and Driving, Volume 10, Number 2, 1994.

In Vehicle BAC Test Devices as a Deterrent to DUI, unpublished NIAAA Final Report, January 1993.

These reports and additional information are available through your State Office of Highway Safety, the NHTSA Regional Office serving your state, or from NHTSA Headquarters, Traffic Safety Programs, NTS-30, 400 Seventh Street S.W. Washington D.C. 20590.